IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.209 OF 2006
IN
CRIMINAL REVISION APPLICATION NO.389 2006

Bhausaheb Vasantrao Palde ...Applicant.
V/s.
1. The State of Maharashtra
2. Smt. Parvatabai Vasant Palde ...Respondents.

Shri Naveen Chomal, adv. for the Applicant.
Shri U.V.Nikam, APP for the Respondent/State.
Shri Nilesh Bhandaray, adv. for Respondent No.2.

CORAM: J.H.BHATIA, J.
DATE : 20th February, 2007.

P.C.:

1. Heard Mr.Chomal, the learned counsel for the applicant and Mr.Nilesh Bhandari, the learned counsel for respondent no.2.

2. This is an application for condonation of delay of 219 days in filing revision application against the order of maintenance passed by the Additional Sessions Judge, Nashik reversing the order passed by J.M.F.C., Nashik rejecting the prayer of respondent no.2 for maintenance. Respondent no.2 claims to be a wife of deceased Vasant Parade, father of the present applicant but she is not the mother of the present applicant. Her application was rejected by the learned Magistrate. Her revision application came to be allowed by an order

dated 16-11-2005. According to the applicant after the said order was passed, the applicant had informed his advocate appearing in that Court that he wanted to challenge the order before the High Court. That advocate applied for certified copy on 12-1-2006 and received certified copy on 18-1-2006. That advocate directly sent the certified copy of the order to one advocate at Bombay for filing revision application. However, the applicant wanted to engage an advocate of his choice and accordingly, he gave vakalatnama duly signed to his counsel, Mr.Chomal. The learned advocate at Nashik, who had sent certified copy to another advocate, contacted that advocate and though that advocate also expressed his readiness to hand over the certified copy, that copy was not made available. When the applicant came to know from his counsel that the certified copy was not available, thereafter he provided another certified copy which was available with him. Thus, long time was lost in communication and therefore, delay was caused. According to the applicant, he has a strong case and taking into consideration the circumstances, the delay should be condoned.

3. The learned counsel for respondent no.2 further contended that a strong case on merit is not a ground for the condonation of delay as held by the Supreme

Court in **State of Gujarat v. Sayed Mohd. Baquir El Edross AIR 1981 Supreme Court 1921.** In fact, in that case before the Supreme Court no cause was shown for condonation of delay for setting aside the abatement and therefore, Their Lordships held that merely because there was a strong case on merits, it could not be a ground for condonation of delay. In the present case, I find that delay is duly explained by the applicant and therefore, it will be in the interest of justice to condone the delay. Delay is hereby condoned. Application is allowed.

4. Application stands disposed off.

(J.H.Bhatia,J.)